

DEFENDANT’S INSTRUCTION 33-1

The Good Faith Defense

The good faith of Defendant is a complete defense to all of the charges in the indictment because good faith on a defendant’s part is, simply, inconsistent with a finding of knowingly and willfully making false, fictitious, or fraudulent statements alleged in Counts One through Five.

A person who acts on a belief or an opinion honestly held is not punishable under a statute merely because the belief or opinion turns out to be inaccurate, incorrect, wrong, irrational or unreasonable. An honest mistake in judgment or an error in management does not rise to the level of knowledge and willfulness required by the statute.

The law is intended to subject to criminal punishment only those people who act knowingly or willfully.

While the term “good faith” has no precise definition, it means, among other things, a belief or opinion honestly held, an absence of malice or ill will, and an intention to comply with known legal duties.

In determining whether or not the government has proven that the defendant acted in good faith or acted knowingly and willfully, the jury must consider all of the evidence in the case bearing on the defendant's state of mind.

The burden of proving good faith does not rest with the defendant because the defendant does not have any obligation to prove anything in this case. It is the government's burden to prove to you, beyond a reasonable doubt, that a defendant acted knowingly and willfully to make false, fictitious, or fraudulent statements.

If the evidence in the case leaves the jury with a reasonable doubt as to whether a defendant acted in good faith, the jury must acquit the defendant.